

Friday, October 3, 1969

Daily Digest

HIGHLIGHTS

Senate passed civil service retirement bill and worked on Kennedy Arts Center bill.

House passed military procurement bill.

See Congressional Program Ahead.

Senate

Chamber Action

Routine Proceedings, pages S 11799-S 11848

Bills Introduced: Three bills were introduced, as follows: S. 2990-2992. Page S 11811

Bill Reported: Report was made as follows: H.R. 337, increasing rate of per diem allowance for Government employees traveling on official business, with amendments (S. Rept. 91-450). Page S 11811

Day of Bread: Senate passed without amendment and cleared for President H.J. Res. 851, requesting the President to proclaim "Day of Bread" and "Harvest Festival." Pages S 11802-S 11804

file **Civil Service Retirement:** Senate passed (motion to reconsider tabled) H.R. 9825, relating to retirement financing and benefits for Government employees and Members of Congress, after amending the bill by substituting for its language the amended text of S. 2754, companion bill. Prior to this action, Senate took the following additional actions on amendments to S. 2754:

Adopted: McGee amendment to strike from the bill section 207, to exclude a maximum of \$3,000 per year of annuity from gross income of annuitant for income tax purposes (Williams of Delaware point of order on constitutional grounds against this language having first been withdrawn); and

Rejected: By 8 yeas to 56 nays, modified Williams of Delaware amendment to strike the language of sections 201-204 which would base annuity on the average salary for 3 consecutive years rather than 5, would allow credit of accumulated sick leave which an employee has at time of retirement, and would provide certain other stated benefits.

Senate insisted on its amendment to H.R. 9825, asked for conference with House, and appointed as conferees Senators McGee, Yarborough, Randolph, Hartke, Fong, Boggs, and Fannin. S. 2754, companion bill, was indefinitely postponed.

After passage of bill, Secretary of Senate was authorized to eliminate the last four lines of the Senate amend-

ment (S. 2754, as amended) so as to conform with provisions of such amendment following elimination of section 207 (exclusion of \$3,000 of annuity from income tax). Pages S 11848-S 11858

Peace Corps: Senate adopted Javits motion to reconsider passage of H.R. 11039, authorizing funds for the Peace Corps for fiscal year 1970, and the bill was then again passed with a Javits amendment to increase by \$3 million authorized appropriations for the Peace Corps for 1970.

Senate insisted on its amendment, asked for conference with House, and appointed as conferees Senators Fulbright, Sparkman, Gore, Aiken, and Mundt. Pages S 11858-S 11859

D.C. Revenue: Senate passed H.R. 12982, proposed D.C. Revenue Act of 1969, after adopting committee amendment in the nature of a substitute, which had first been amended by adoption of Eagleton amendment to increase from \$8.5 million to \$10.5 million authorized appropriations to reimburse the District of Columbia for revenues lost by it during that part of the fiscal year 1970 preceding date of enactment of this bill. Pages S 11874-S 11888

Kennedy Center: Senate considered H.R. 11249, to authorize additional funds for the John F. Kennedy Center for the Performing Arts.

Pending at adjournment was modified Smith of Maine amendment No. 204, barring expenditure of increased authorized appropriations and providing that none of the increase in authority to borrow from the Treasury may be used until after Comptroller General has completed an investigation of the past and projected costs of the center, report thereof to be submitted to the Congress within 60 days after enactment of the bill.

By unanimous consent, the following debate-limitation agreement was entered into: After routine morning business on Monday, October 6, further debate on the pending Smith amendment will be limited to 2 hours, equally divided. Debate on all other amendments will be limited to 1 hour, equally divided; and

D 901

debate on question of final passage of the bill will be limited to 1 hour, equally divided. **Pages 5 11859-5 11869**

North Atlantic Assembly: Vice President has appointed Senator Percy to attend the North Atlantic Assembly to be held at Brussels on October 16-21, and has also appointed Senators Kennedy and Young of Ohio to the North Atlantic Assembly in lieu of Senators Byrd of West Virginia and McIntyre.

Confirmations: Senate confirmed the following nominations: Helcn D. Bentley, of Maryland, to be a Federal Maritime Commissioner; Secor D. Browne, of Massachusetts, to be a member of the Civil Aeronautics Board; Isabel A. Burgess, of Arizona, to be a member of the National Transportation Safety Board; and two judicial. **Page 5 11888**

Nomination: Nomination of Caspar W. Weinberger, of California, to be a Federal Trade Commissioner, was received. **Page 5 11888**

Program for Monday: Senate met at 11 a.m. and adjourned at 5:07 p.m. until noon Monday, October 6, when it will continue, under debate-limitation agreement, on H.R. 11249, Kennedy Center for Performing Arts, to be followed by S. 7, water pollution. **Page 5 11848**

Committee Meetings

(Committees not listed did not meet)

SUBOCEANIC LANDS

Committee on Commerce: Special subcommittee to study the United Nations' suboceanic lands policy received testimony from Senator Pell; and Malcolm Wilkey, general counsel, Kennecott Copper Co., New York City.

Hearings were adjourned subject to call.

NOMINATION

Committee on Commerce: Committee held hearings on the nomination of Harold Passer, of New York, to be an Assistant Secretary of Commerce, where the nominee was present to testify and answer questions on his own behalf.

TAX REFORM

Committee on Finance: Committee continued hearings on H.R. 13270, proposed Tax Reform Act of 1969, re-

ceiving testimony from Senators Tydings, Stevens, and Goodell; Representatives Patman and Vanik; former Senator Smathers, on behalf of Manufacturers Hanover Trust Co. and Morgan Guaranty Trust Co. of New York; Scott P. Crampton and H. Francis DeLone, both of American Bar Association; Donald H. Gleason, National Association of Manufacturers; Walker Winter, Chamber of Commerce of the United States; Saul Pearl, Machinery Dealers National Association; Harold Kettelhut, Freeport, Ill.; Mrs. J. M. Ford, Lawrence, Kans.; Edna Anish, Pittsburgh; Max Lupkin, Joint Handicapped Council, New York City; Paul D. Seghers, Institute on U.S. Taxation of Foreign Income, Inc.; Dr. N. R. Danielian, International Economic Policy Association; John J. Carroll, National Foreign Trade Council; William J. Nolan, Jr., U.S. Council of the International Chamber of Commerce; and Dr. John A. Perkins, president, Wilmington Medical Center, Delaware.

Hearings continue on Monday, October 6.

U.S. PROGRAMS IN PHILIPPINES

Committee on Foreign Relations: Subcommittee on U.S. Security Agreements and Commitments Abroad continued executive hearings to receive testimony from witnesses of the executive branch of the Government concerning U.S. personnel facilities and programs in the Philippines.

MILITARY SERVICE CLUBS

Committee on Government Operations: Permanent Subcommittee on Investigations continued hearings in connection with its study of alleged mismanagement of military service clubs, having as its witnesses Col. James C. Shultz and Warrant Officer Reis R. Kash, both of the Criminal Investigation Division, Army.

Hearings continue on Monday, October 6.

RESOURCE RECOVERY ACT

Committee on Public Works: Subcommittee on Air and Water Pollution continued hearings on S. 2005, providing financial assistance for the construction of solid waste disposal facilities, with testimony from Theos J. Thompson, member, Atomic Energy Commission.

Hearings were recessed subject to call.

House of Representatives

Chamber Action

Bills Introduced: 23 public bills, H.R. 14173-14195; three private bills, H.R. 14196-14198; and two resolutions, H.J. Res. 921 and H. Con. Res. 397, were introduced. **Pages H 9041-H 9042**

Military Procurement: By a record vote of 311 yeas to 44 nays, with one voting "present," the House passed H.R. 14000, military procurement authorization for fiscal year 1970.

Thursday, October 2, 1969

Daily Digest

HIGHLIGHTS

Senate passed coal mine health and safety bill and took up civil service retirement bill.

House worked on the military procurement bill.

Senate

Chamber Action

Routine Proceedings, pages S 11719-S 11743

Bills Introduced: Seven bills were introduced, as follows: S. 2983-2989. Page S 11720

Bills Reported: Reports were made as follows:

S. 533, 2096, 2331, 2443, H.R. 3165, 3560, S. 1797, 1775, and 476, private bills (S. Repts. 91-437 to 91-445);

H.J. Res. 851, requesting the President to proclaim "Day of Bread" and "Harvest Festival" (S. Rept. 91-446);

S.J. Res. 143, to extend the duration of copyright protection in certain cases (S. Rept. 91-447);

S. 981, providing that the U.S. District Court for the District of Maryland sit at one additional location, with amendment (S. Rept. 91-448); and

S. 1598, permitting retirement of judges at full annuity at any age after 20 years' service (S. Rept. 91-449). Page S 11720

President's Communication—Disaster Relief: President transmitted communication requesting an amendment to the budget for fiscal year 1970 in the amount of \$125 million for disaster relief, which was referred to Committee on Appropriations and ordered to be printed as S. Doc. 91-36. Page S 11719

Reported Measures Not Acted On: The Résumé of Congressional Activity for the first session of the 91st Congress, page 893 of the DAILY DIGEST of Wednesday, October 1, should have shown in the Senate column the figure 26 as the number of "Reported Measures Not Acted On."

Coal Mine Safety: By unanimous vote of 73 yeas (motion to reconsider tabled), Senate passed with amendments S. 2917, proposed Coal Mine Health and Safety Act of 1969, after taking the following actions on additional amendments thereto:

Adopted: Metcalf amendment to make mandatory rather than permissive the imposition of civil penalties on operators for violation of mandatory health or safety standards; Cooper amendment No. 218, as amended by adoption, by 45 yeas to 31 nays (motion to reconsider tabled) of Williams (New Jersey)-Javits amendment

in the nature of a substitute therefor (respecting certain electric face equipment in coal mines not classified as "gassy"; Byrd (West Virginia) amendment providing that in determining amount of a mandatory civil penalty against an operator for violation of a mandatory health or safety standard there shall be taken into consideration whether he was at fault; and Allen amendment providing that a mandatory civil penalty for violation of a mandatory health or safety standard shall be not less than \$1 nor more than \$25,000; and

Rejected: By 24 yeas to 53 nays, Prouty-Bellmon-Dominick amendment No. 219, to create as an independent agency the Federal Coal Mine Health and Safety Board of Review.

Pages S 11744-S 11745, S 11747-S 11750, S 11756-S 11789

Legislative Program: Majority leader announced that following action on S. 2754, Civil Service retirement, Senate will consider H.R. 11249, John F. Kennedy Center; H.R. 12982, D.C. revenue; and consideration of motion to reconsider passage of H.R. 11039, Peace Corps extension. Page S 11789

Civil Service Retirement: Senate considered, but did not complete action on, S. 2754, relating to retirement financing and benefits for Government employees and Members of Congress, adopting en bloc McGee amendments of a clarifying, technical nature.

Presiding officer stated that he is referring to the Senate, because of the constitutional question involved, whether the following Williams (Delaware) point of order is well taken: Sec. 207 of the bill to exclude a maximum of \$3,000 per year of annuity from gross income of annuitant for income tax purposes may not originate in the Senate but in the House. By unanimous consent, it was agreed that at conclusion of routine morning business on Friday, October 3, debate on the pending question as to whether the Williams (Delaware) point of order is well taken will be limited to 30 minutes, equally divided. Pages S 11789-S 11797

Confirmations: Senate confirmed the following nominations: Nancy Hanks, of New York, to be Chairman of the National Council on the Arts; and 12 judicial.

Page S 11797

D 896

Laws and Rules for Publication of the Congressional Record

AS OF SEPTEMBER 3, 1969

CODE OF LAWS OF THE UNITED STATES

TITLE 44, SECTION 901. CONGRESSIONAL RECORD: ARRANGEMENT, STYLE, CONTENTS, AND INDEXES.—The Joint Committee on Printing shall control the arrangement and style of the CONGRESSIONAL RECORD, and while providing that it shall be substantially a verbatim report of proceedings, shall take all needed action for the reduction of unnecessary bulk. It shall provide for the publication of an index of the CONGRESSIONAL RECORD semi-monthly during and at the close of sessions of Congress. (Oct. 22, 1968, c. 9, 82 Stat. 1255.)

TITLE 44, SECTION 904. CONGRESSIONAL RECORD: MAPS; DIAGRAMS; ILLUSTRATIONS.—Maps, diagrams, or illustrations may not be inserted in the RECORD without the approval of the Joint Committee on Printing. (Oct. 22, 1968, c. 9, 82 Stat. 1256.)

To provide for the prompt publication and delivery of the CONGRESSIONAL RECORD the Joint Committee on Printing has adopted the following rules, to which the attention of Senators, Representatives, and Delegates is respectfully invited:

1. *Arrangement of the daily Congressional Record.*—The Public Printer shall arrange the contents of the daily CONGRESSIONAL RECORD as follows: The Senate proceedings shall alternate with the House proceedings in order of placement in consecutive issues insofar as such an arrangement is feasible, and Extensions of Remarks and Daily Digest shall follow: *Provided*, That the makeup of the CONGRESSIONAL RECORD shall proceed without regard to alternation whenever the Public Printer deems it necessary in order to meet production and delivery schedules.

2. *Type and style.*—The Public Printer shall print the report of the proceedings and debates of the Senate and House of Representatives, as furnished by the official reporters of the CONGRESSIONAL RECORD, in 7½-point type; and all matter included in the remarks or speeches of Members of Congress, other than their own words, and all reports, documents, and other matter authorized to be inserted in the CONGRESSIONAL RECORD shall be printed in 6½-point type; and all rollcalls shall be printed in 6-point type. No italic or black type nor words in capitals or small capitals shall be used for emphasis or prominence; nor will unusual indentations be permitted. These restrictions do not apply to the printing of or quotations from historical, official, or legal documents or papers of which a literal reproduction is necessary.

3. *Return of manuscript.*—When manuscript is submitted to Members for revision

it should be returned to the Government Printing Office not later than 9 o'clock p.m. in order to insure publication in the CONGRESSIONAL RECORD issued on the following morning; and if all of the manuscript is not furnished at the time specified, the Public Printer is authorized to withhold it from the CONGRESSIONAL RECORD for 1 day. In no case will a speech be printed in the CONGRESSIONAL RECORD of the day of its delivery if the manuscript is furnished later than 12 o'clock midnight.

4. *Tabular matter.*—The manuscript of speeches containing tabular statements to be published in the CONGRESSIONAL RECORD shall be in the hands of the Public Printer not later than 7 o'clock p.m., to insure publication the following morning. When possible, manuscript copy for tabular matter should be sent to the Government Printing Office two or more days in advance of the date of publication in the CONGRESSIONAL RECORD. Proof will be furnished promptly to the Member of Congress to be submitted by him instead of manuscript copy when he offers it for publication in the CONGRESSIONAL RECORD.

5. *Proof furnished.*—Proofs of "leave to print" and advance speeches will not be furnished the day the manuscript is received but will be submitted the following day, whenever possible to do so without causing delay in the publication of the regular proceedings of Congress. Advance speeches shall be set in the CONGRESSIONAL RECORD style of type, and not more than six sets of proofs may be furnished to Members without charge.

6. *Notation of withheld remarks.*—If manuscript or proofs have not been returned in time for publication in the proceedings, the Public Printer will insert the words "Mr. _____ addressed the Senate (House or Committee). His remarks will appear hereafter in Extensions of Remarks" and proceed with the printing of the CONGRESSIONAL RECORD.

7. *Thirty-day limit.*—The Public Printer shall not publish in the CONGRESSIONAL RECORD any speech or extension of remarks which has been withheld for a period exceeding 30 calendar days from the date when its printing was authorized: *Provided*, That at the expiration of each session of Congress the time limit herein fixed shall be 10 days, unless otherwise ordered by the committee.

8. *Corrections.*—The permanent CONGRESSIONAL RECORD is made up for printing and binding 30 days after each daily publication is issued; therefore all corrections must be sent to the Public Printer within that time: *Provided*, That upon the final adjournment of each session of Congress the time limit shall be 10 days, unless otherwise ordered by the committee: *Provided further*, That no Member of Congress shall be entitled to make more than one revision. Any revision

shall consist only of corrections of the original copy and shall not include deletions of correct material, substitutions for correct material, or additions of new subject matter.

9. The Public Printer shall not publish in the CONGRESSIONAL RECORD the full report or print of any committee or subcommittee when the report or print has been previously printed. This rule shall not be construed to apply to conference reports.

10(a). *Extensions of Remarks in the daily Congressional Record.*—When either House has granted leave to print (1) a speech not delivered in either House, (2) a newspaper or magazine article, or (3) any other matter not germane to the proceedings, it shall be published under Extensions of Remarks. This rule shall not apply to quotations which form part of a speech of a Member, or to an authorized extension of his own remarks: *Provided*, That no address, speech, or article delivered or released subsequently to the sine die adjournment of a session of Congress may be printed in the CONGRESSIONAL RECORD.

10(b). *Makeup of the Extensions of Remarks.*—Extensions of Remarks in the CONGRESSIONAL RECORD shall be made up by successively taking first an extension from the copy submitted by the official reporters of one House and then an extension from the copy of the other House, so that Senate and House extensions appear alternately as far as possible. The sequence for each House shall follow as closely as possible the order or arrangement in which the copy comes from the official reporters of the respective Houses.

The official reporters of each House shall designate and distinctly mark the lead item among their extensions. When both Houses are in session and submit extensions, the lead item shall be changed from one House to the other in alternate issues, with the indicated lead item of the other House appearing in second place. When only one House is in session, the lead item shall be an extension submitted by a Member of the House in session. This rule shall not apply to CONGRESSIONAL RECORDS printed after the sine die adjournment of the Congress.

The Public Printer shall withhold any Extensions of Remarks which exceed economical press fill or exceed production limitations. Extensions withheld for such reasons shall be printed in the next issue of the CONGRESSIONAL RECORD immediately following the lead items as indicated by the official reporters.

11. *Official reporter.*—The official reporters of each House shall indicate on the manuscript and prepare headings for all matter to be printed in Extensions of Remarks and shall make suitable reference thereto at the proper place in the proceedings.

managers of the bill and the other Senators who have labored so long on this legislation.

I have had recent opportunity to talk with Virginia miners—some of them victims of accidents, others of lung disease resulting from their occupation.

The Senate has taken a step today toward improving the conditions for safety in the mines and reducing the chances for contraction of pneumoconiosis by workers in the coal mines.

Mr. MANSFIELD. Mr. President, while I was unable to attend the opening sessions of the debate on this measure which is designed to up-date our coal mine industry and provide miners with long-needed protection, it was with great pleasure that I witnessed the highly thoughtful debate today. The overwhelming passage of this measure represents a splendid achievement for the miners of our Nation.

Much of the credit, I must say, belongs to the distinguished Senator from New Jersey (Mr. WILLIAMS). All of us appreciate the long hours he devoted to preparing this measure both in committee and while it was pending before the Senate. The high caliber of that preparation was exhibited in the wide acceptance of the proposal. We are grateful.

Our thanks go also to the distinguished senior Senator from New York (Mr. JAVITS) who joined constructively and with characteristic cooperation to assure this fine success. Other Senators played vital roles, as well. Noteworthy was the contribution of the distinguished Senators from West Virginia (Mr. RANDOLPH and Mr. BYRD). Representing a great mining State they understand well the grave problems of unsafe mines and mining operations. They contributed immensely to the discussion.

Of course, the distinguished senior Senator from Kentucky (Mr. COOPER) must be singled out for his contribution. Though his views differed to some extent with some features of the proposal, he urged his position with great advocacy and the deep sincerity which was always welcome. The same may be said for his colleague, the distinguished junior Senator from Kentucky (Mr. COOK). The Senator from Vermont (Mr. PROUTY) also deserves our gratitude for his contribution to the discussion and for cooperating to assure final disposition with such efficiency.

Finally, I wish to thank all Members of the Senate for their cooperation. I think each of us may take great pride in the passage of this measure. We have gone on record unequivocally in support of this great issue.

Mr. KENNEDY. Mr. President, I congratulate the Senator from New Jersey (Mr. WILLIAMS) for his outstanding leadership as he has led this important legislation through to passage today. His activities, and the final result today, are very impressive. I commend, as well, the Senator from New York (Mr. JAVITS), the Senator from Kentucky (Mr. COOPER), the Senator from Vermont (Mr. PROUTY), and the Senators from West Virginia (Mr. RANDOLPH and Mr. BYRD).

CIVIL SERVICE RETIREMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 333, S. 2754.

The PRESIDING OFFICER. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (S. 2754) to amend subchapter III of chapter 83 of title 5, United States Code, relating to civil service retirement, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. MANSFIELD. Mr. President, with the concurrence of the distinguished chairman of the committee, I should like to yield at this time to the distinguished minority leader.

LEGISLATIVE PROGRAM

Mr. SCOTT. Mr. President, may I ask the distinguished majority leader what is the order of business from here on out? What is to be done on the pending measure, and what does the majority leader plan thereafter?

Mr. MANSFIELD. Mr. President, in response to the questions raised by my distinguished colleague, the minority leader, there is a hope—how good it is I do not know—that we might be able to finish the pending business tonight. Whether or not we finish it tonight or tomorrow, it will be followed by the John F. Kennedy Center bill, Calendar No. 316, and that, in turn, will be followed by the District of Columbia revenue bill, Calendar No. 427, and that in turn by S. 7, Calendar No. 346, the water pollution control bill.

It is anticipated that either tonight or tomorrow morning, we will bring up for reconsideration the Peace Corps measure, which I understand has been cleared all around.

That, to the best of my knowledge, is the situation as we see it.

Mr. SCOTT. I thank the distinguished majority leader.

CIVIL SERVICE RETIREMENT

The Senate resumed the consideration of the bill (S. 2754) to amend subchapter III of chapter 83 of title V, United States Code, relating to civil service retirement, and for other purposes.

Mr. McGEE. Mr. President, I sent to the desk amendments to the pending measure, S. 2754, and ask unanimous consent that the amendments be agreed to en bloc. These are perfecting amendments in language, or updating of dates, recommended by the administration, and have nothing to do with the substance or any controversial parts of the bill. I ask unanimous consent that they be agreed to en bloc.

The PRESIDING OFFICER. The clerk will state the amendments.

The assistant legislative clerk proceeded to read the amendments.

Mr. McGEE. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendments will be printed in the Record.

The amendments are as follows:

On page 8, line 7, change the section designation from "Sec. 201." to "Sec. 201. (a)".

On page 8, line 12, strike out the words "period of" and insert in lieu thereof the word "total".

On page 8, line 12, insert the following new subsection "(b)":

"(b) Subsection (c) of section 8333 of title 5, United States Code, is amended to read as follows:

"(c) A Member or his survivor is eligible for an annuity under this subchapter only if the amounts named by section 8334 of title 5 have been deducted or deposited with respect to his last five years of civilian service, or, in the case of a survivor annuity under section 8341(d) or (e) of this chapter, with respect to his total service."

On page 12, in lines 1 and 16, strike out the word "consecutive".

On page 14, beginning on line 6, strike out all down through line 14 and insert in lieu thereof the following:

"(2) The annuity of each surviving child who, immediately prior to the effective date of such amendment is receiving an annuity under section 8341 (e) of title 5, United States Code, or under a comparable provision of any prior law, or who hereafter becomes entitled to receive annuity under the Act of May 29, 1930, as amended from and after February 28, 1948, shall be recomputed effective on such date, or computed from commencing date if later, in accordance with such amendment. No increase allowed and in force prior to such date shall be included in the computation or recomputation of any such annuity. This paragraph shall not operate to reduce any annuity."

Mr. McGEE. Mr. President, the pending legislation relates to civil service retirement.

The PRESIDING OFFICER. The Chair would inquire of the Senator from Wyoming if he wishes that these amendments be agreed to prior to his presentation.

Mr. McGEE. If that is in order, Mr. President.

The PRESIDING OFFICER. Without objection, the amendments are agreed to en bloc.

The Senator from Wyoming may proceed.

Mr. McGEE. Mr. President, this legislation is a result of nearly 3 years of careful study and recommendation by the Committees on Post Office and Civil Service to enact legislation resolving the financial difficulties of the civil service retirement and disability fund and to make certain improvements in the benefits offered employees of the Federal Government through the retirement plan.

Each Senator has on his desk a copy of the public hearings which our Subcommittee on Retirement held on this legislation, as well as a copy of the committee report recommending enactment; so I will not dwell at length on the intricacies of the bill except to describe briefly the major purposes involved.

Title I relates to resolving the long-standing problem of adequately financing the civil service retirement system. Ever since its creation in 1920, the system has had a financial liability which was not properly funded. This was caused originally by permitting credit for all

October 2, 1969

civil service performed prior to August 1, 1920, and it has over the years accumulated a total unfunded liability of \$57.7 billion. It is "unfunded" because the amount of money collected from the employees and contributed by the Government, when invested at interest, will not pay the debt which the Government owes to all employees.

Let me point out that none of this liability results from any failure on the part of our civil service employees to pay their share. They have always paid whatever the law required, originally 2.5 percent of their gross salary, and now 6.5 percent of their gross salary.

The liability is solely the result of the Government's failure to live up to its part of the bargain. In the early years, no money was contributed by the Government to the fund. After 1928 the amount contributed was not sufficient to meet fully the future costs, and it was not until 1957 that Congress by law required agency contributions at a rate equal to the employee's contribution. So all that time, the fund lost earnings on money that would have been invested had it been contributed by the Government, and we call that the "lost interest on the unfunded liability." In addition, changes in the retirement law, statutory salary increases, inclusions of new groups of employees, and other liberal changes in the law create additional unfunded liability because no contribution is made to pay the cost of crediting past service.

Title I seeks to resolve this problem permanently. In the first place, the lost interest on the unfunded liability as well as the amount of annual annuity payments based on military service will be paid directly from the Treasury into the retirement fund. To soften the impact upon the budget, we will start at 10 percent and gradually move up to full payment over a 10-year period. By fiscal year 1980, the Treasury will pay directly to the fund approximately \$3 billion each year, and at that time the unfunded liability will cease to grow any larger on account of the loss of interest.

Second, title I authorizes the Congress to appropriate each year whatever amount of money is necessary to prevent an increase in the unfunded liability resulting from statutory changes in the retirement law or salary increases which affect the future liability of the fund. These payments would be amortized over a 30-year period at a level rate. At the end of 30 years, the payments would come to an end and because of the payments, the unfunded liability would not have increased.

That is title I in a nutshell. Our committee has worked for several years on this problem. The status of the fund has been a serious problem. We must act now to insure the future stability of the retirement program so that those who retire from the Federal service will never have their annuities jeopardized. The Bureau of the Budget, the Civil Service Commission, the House of Representatives Committee on Post Office and Civil Service; all of the members of the House Appropriations Subcommittee on Independent Offices, and the Senate Com-

mittee on Post Office and Civil Service endorse and support this remedy for the unfunded liability.

The requirement that the Treasury pay the annual cost of crediting military service for civil service retirement purposes was given our very careful consideration. The idea first arose some years ago when the then chairman of the Senate Committee, Senator Olin Johnston, recommended that the Department of Defense be required to reimburse the fund for the military service added to an employee's retirement credit. Our committee considered that proposal and we also considered charging the cost to the Veterans' Administration. But in the last analysis, we determined that the cost for military service should not be borne by any one agency of the Government. It is a benefit to those who have served in the Armed Forces, which is a general responsibility of the Government. Originally, Congress idea was to credit such service for men who had their career in the Federal civil service interrupted on account of war. Congress deemed that they should not lose retirement credit under such circumstances if they returned to the Government and retired on a civil service annuity. There are thousands of employees in those circumstances; but there are also thousands of employees whose career was military rather than civilian, and who retire after 30 years in the Army or the Navy, and come into the civil service. Subsequently, after 5 years' civilian service, they may be eligible to retire and have their entire military service credited toward civil service retirement if they give up their military retired pay, or if they were retired from the military on account of a combat-connected disability.

The result is that nonveteran employees pay a portion of their contribution for a retirement benefit which they do not receive and which in many cases will pay a retirement benefit to a retired officer or enlisted man who spent 20 or 25 or 30 years in the Armed Forces. I am sure my colleagues have heard a number of complaints from constituents concerning this particular quirk in the law. With that in mind, our committee recommends that the Government generally pay this cost, that it not be charged to the Army or the Navy or the Veterans' Administration or the retirement fund itself. As in the case of the interest on the unfunded liability, the impact of the payment would be softened by amortizing it over a 10-year period, beginning at about \$9.5 million and increasing to about \$195 million over a 10-year period.

Finally, Mr. President, title I increases the amount of contribution by employees and each agency of the Government. Presently, employees, including congressional employees, pay 6.5 percent of the gross annual pay into the retirement program, and each agency contributes 6.5 percent of its payroll into the system. Members of Congress pay 7.5 percent of their annual salary, and an equal amount is contributed by the appropriations available for congressional operations.

Under the new rate, each employee will contribute 7 percent of pay, effective

in January 1971, each congressional employee will contribute 7.5 percent, and each Member will contribute 8 percent. The total additional contribution into the system will be about \$240 million a year, based on next year's payroll. The total contribution will be 14 percent, and the total cost of the program after the effective date of the amendments in title II, will be 13.98 percent of payroll.

Title II makes certain very basic changes in the Civil Service Retirement Act to improve the system. Five of these were included in the bill which passed the House a couple of weeks ago:

First, changing the high 5 to the high 3 for computing civil service annuities;

Second, including accumulated sick leave as service for an employee who retires with sick leave to his credit;

Third, adding 1 percent to the cost-of-living adjustments for annuitants which are made from time to time on the basis of Consumer Price Index.

Fourth, permits the widow of a Federal employee who died or retired before the act of July 18, 1966, to remarry and continue to receive her annuity if she is past 60 years of age; and

Fifth, permits an employee of the Congress to receive the 2.5-percent computation formula for all years of service. He would pay an additional 1 percent for this improved formula.

In addition to these changes the Senate bill exempts up to \$3,000 of civil service annuity from Federal income taxation, and improves the survivor annuity protection for employees or disability-retired employees.

Some of these features are well known to all Members. Changing the high 5 to the high 3 is an effort to make more relevant the annuity which an employee receives in relation to the salary he was receiving at the time of his retirement. There is not anything magic about the high 5. It has been in the law for 39 years, and it is time to recognize that retirement annuities should be as closely related to the standard of living the employee was purchasing and enjoying at the time of his retirement as we can make them.

Adding sick leave to an employee's retirement credit resolves a very basic problem, because although employees are paid for their accumulated annual leave at the time of retirement, they give up all of their sick leave. One result is that employees tend to call in sick quite frequently in the last year or two before they retire. When an employee retires on disability, it is standard practice to use up all of his sick leave before leaving office. So the Government pays at full value for accumulated sick leave in many cases. In other cases, an employee who has enjoyed good health and good conscience gives up 2,000 hours or so of accumulated sick leave for which he receives no credit or compensation.

The additional 1-percent adjustment in annuities recognizes that our national productivity continues to increase, and that there is more to maintaining a reasonable standard of living after retirement than just chasing after the consumer price indicators.

The change in the retirement computation for the employees of the Congress

makes their retirement computation identical to that of Members of Congress—2.5 percent for congressional service, and 2.5 percent for up to 5 years of military service. For this they will pay an extra 1 percent each year.

The exclusion of up to \$3,000 of civil service annuities from Federal income taxation is a goal that retired civil service employees have sought for many years. It is just hard to explain to people back home that civil service annuities are taxed as ordinary income, while social security is tax free, railroad retirement is tax free, and income from investments on municipal bonds is tax free. That does not create a very good impression upon a retired civil service employee who is trying to get by on \$2,000 or \$3,000 a year and is paying taxes on it. This is an amendment to the Civil Service Retirement Act and is very similar, except for the dollar amount, to the bill, S. 2087, which I introduced on May 8, 1969, and which was referred to the Committee on Post Office and Civil Service.

This exclusion of up to \$3,000 would be in lieu of the retirement credit now provided by the Internal Revenue Code. Under that law, any pension or annuity payment which is not taxed must be subtracted from the retirement credit. The effect of our amendment, therefore, would be to replace the retirement credit for civil service annuitants only, thus giving them a tax benefit equal to the difference between the \$3,000 exclusion and the tax credit they now receive, which is now a maximum of \$228. The impact on revenue would not be substantial because retired employees past 65 who are married to a spouse past 65 have very little taxable income anyway.

Finally, the bill revises very substantially the survivor annuity benefits for a widow of a Federal employee who dies or who has retired on account of physical disability and thereafter dies.

Under existing law, the widow and children of an employee who has less than 5 years' service receives no benefit at all if her husband dies. If an employee has 5 years of service, his widow is entitled to a percentage of his earned annuity; and since civil service retirement is a system based on long service and average salary, the earned annuity of a young employee is very small. After 10 years, his earned annuity is just 16 1/4 percent of his average salary. After 20 years, it is just 36 1/4 percent of his average salary; and when you give the widow 55 percent of that, she will not get rich. The examples cited on pages 6 and 7 of the committee report indicate how drastic the financial impact of the death of a short-term employee is upon his wife and children.

For some time our committee has attempted to work out legislation acceptable to all to provide for a transfer of credit between civil service retirement and social security. Nothing acceptable has been developed. We shall continue that effort, but in the meantime, we must resolve the problem for the survivors now. Our bill does this, and I think it is a most significant improvement in the retirement program.

The amendments provide that when an employee dies after completing 18 months' service under the Civil Service Retirement Act, he has a vested annuity for survivor annuity purposes only. His widow is entitled to at least 55 percent of 40 percent of his average salary or 55 percent of his annuity projected to age 60, whichever is less; and his children would be entitled to the lesser of \$900, 60 percent of his average salary divided by the number of children, or \$2,700 divided by the number of children. The effect of our amendments are to make very substantial improvements in the survivor annuity protection offered an employee who has at least 18 months' service, but not more than 22 years of service. This is where the retirement program for civil service employees is now gravely deficient and that is where we have aimed our corrections.

The cost of the bill as reported from the committee is about \$205 million in direct transfer from the Treasury to the civil service retirement fund in the coming fiscal year, that is fiscal year 1971. The normal cost of the system is increased by about one-fifth of 1 percent of Federal payroll. One percent of Federal payroll was about \$22 billion as of June 30, so the extra cost which, of course, will be fully paid for under the financing portion of the bill is \$44 million a year. That is \$2 million a year less than the provision of the bill passed by the House of Representatives. The difference relates primarily to changing the method of financing military service credit.

The unfunded liability of the system would be increased by \$1.4 billion as a result of the liberalizations in title II, but the overall liability of the fund would be reduced because of the direct Treasury funding for military service credit. The net result would be a decrease in the liability of the fund of about \$3.3 billion.

Mr. FONG. Mr. President, will the Senator yield?

Mr. McGEE. I yield.

Mr. FONG. Mr. President, I congratulate the distinguished Senator from Wyoming for his leadership in bringing to the Senate this very constructive bill. This bill really stabilizes, for the first time, the retirement system and assures that our civil service employees will be paid in the future. It also adds a few changes to the law that are very desirable.

Mr. President, the Civil Service Retirement Amendments of 1969, contained in S. 2754 and presently under debate, contains critical and very necessary changes in the U.S. civil service retirement system and fund. The bill was reported out unanimously by the Senate Committee on Post Office and Civil Service.

I strongly urge my Senate colleagues to approve the proposed legislation.

For 22 years the U.S. Civil Service Commission has urged Congress to approve legislation eliminating or stabilizing the Federal retirement fund's unfunded liability. The Senate report on S. 2754 explains in detail the reasons for

this huge deficit, now totaling \$61,000,000,000, and the committee's proposal to correct the present intolerable situation which if allowed to continue will bankrupt the Federal retirement fund in 18 years.

The Federal retirement fund was established in 1920 to provide retirement income for all Federal employees. The initial employee contribution of 2 1/2 percent was to be matched by Federal Government contribution of an equal amount. The 2 1/2 percent employee-agency contribution was increased periodically until in 1956 the present 6 1/2-percent contribution rate became effective. During the entire history of the Federal retirement system, all Federal employee contributions have been paid in full and have approximated one-half the normal cost.

In contrast to the specific requirements for employee contributions, the act, prior to 1958, stated in effect that the Federal Government's share would be financed by the submission of appropriation estimates to Congress necessary to finance the system and to continue the act in full force and effect. As a result, a number of different methods were employed over the 48 years the plan has been in existence to take care of the Government's contributions.

During the first 8 years of the plan, no agency appropriations were enacted and benefit disbursements were financed entirely by employee contributions. From 1929 to the end of World War II, although Government contributions were generally recommended by the President in amounts sufficient to cover normal costs and to amortize the unfunded liability then existing, the amounts actually appropriated varied. Congress enacted lower appropriations than those recommended by the President on five occasions, higher amounts twice, and on one occasion approved the full amount requested by the President in his budget.

In 1958, the present funding procedures were enacted. Under it, each Federal agency contributes to the fund from its appropriations for payment of salaries, amounts equal to deductions from the salaries of its employees for retirement at the rate of 6 1/2 percent. This achieved the objective of assuring annual income approximating normal cost. However, these contributions failed to meet fully the Government's portion of retirement costs because it did nothing to reduce the unfunded liability caused by insufficient appropriations in previous years.

A review of the system shows that the major causes for the present unfunded liability of approximately \$61 billion have been: First, creditable service for which neither the employee nor the employer contributed, such as military service creditable for civilian retirement; second, general wage increases which result in benefits based on a higher pattern of salaries than that upon which at least a portion of contributions is based; third, liberalizations applying to benefits based on past and/or future service without a commensurate increase in contributions; and fourth, loss of compounded interest

October 2, 1969

income which would have been earned if the accrued liability had been fully funded.

Because employee contributions during the 1930's and 1940's exceeded benefit payments, the potential impact of an unfunded liability was obscured. However, with stabilized employment, inadequate employer contributions and increased benefit payments, the annual trust fund revenues within the foreseeable future would be unable to meet benefit payments.

Under the present funding practices the assets of the fund which presently total \$20,500,000,000 will increase to \$23 billion in 1975 while the deficiency will simultaneously approach \$80 billion. In 1975 the disbursements will begin to exceed the annual income of \$3.8 billion. Thereafter, disbursements will continue to escalate over a relatively static income and will result in a declining fund balance. At that time, in order to meet benefit payments, all disbursements in excess of current income will have to come from the fund balance. Without additional funding, that balance will be depleted by 1987.

Thereafter, disbursements will exceed income by \$3,500,000,000 and will require direct appropriations to meet benefit payments. By year 2000, the necessary direct annual appropriations would approach \$5,000,000,000. This would be in addition to the approximate \$3,000,000,000 employee-agency contributions.

PROPOSED NEW FUNDING PROCEDURE

Under the provisions of S. 2754, the normal cost financing of equal employee-agency contributions would be retained. Normal cost in this sense is defined as that level percentage of annual employee pay which, invested at interest, is required to cover the costs of benefits earned each year starting for each employee at the time of appointment.

The present inadequate contributions and the normal cost financing of the combined contribution rate from 13 to 14 percent of payroll—7 percent each from employee and agency, effective January 1970. The congressional employee rate of 6½ percent would be increased to 7½ percent, and Members of Congress would contribute an additional one-half percent, to 8 percent.

The present normal cost of present benefits is equivalent to 13.86 percent of civilian payroll for the Federal Government. The increased benefits plus the modified reimbursement procedure for military service credit contained in the bill would increase the cost coverage by 0.12 percent, for a total of 13.98 percent of current payroll. The result is an over-financing of slightly less than .02 percent of payroll.

Although the system's unfunded liability has grown to \$61 billion in 1969, and can be attributed to numerous liberalizations of benefits, recurring salary increases, and several automatic cost-of-living adjustments to annuities, the major growth of the unfunded liability is attributable to the loss of interest on the unfunded liability. This approximates \$2 billion each year.

The bill would eliminate this loss by providing for direct appropriations of

this interest. However, for the first year the Secretary of the Treasury would transfer to the retirement fund a sum equivalent to 10 percent of the interest on the then-existing unfunded liability; and thereafter an additional 10 percent for each successive fiscal year until 1980. After 1980, the amount transferred annually will be the equivalent of the full interest thereon.

This formula, though not reducing the unfunded liability, will provide the interest to make the fund operationally solvent. This is the thrust of title I of the bill.

Should future incremental unfunded liabilities result from benefit liberalizations, general salary increases, extension of coverage to new groups of employees, or newly authorized annuity increases, they would be fully financed by the Federal Government through direct appropriations to the fund, in equal annual installments, over 30-year periods. The Government would assume full responsibility for additional deficiencies thus created, and, by amortization, preclude further increases in the unfunded liability.

Title II of the bill makes certain liberalizations in the Federal Retirement Act. It would: use "high 3" instead of "high 5" for computing civil service annuities; permit adding sick leave accumulated at the time of retirement to the period used in computing annuities; add 1 percent to cost-of-living increases for annuities; make the remarriage provisions of the 1966 Amendments to the Federal Retirement Act partly retroactive; improve survivor benefits for employees and retired disabled employees who die in service or after disability retirement; exempt up to \$3,000 of civil service retirement annuity from Federal income taxation; and permit congressional employees to receive 2½ percent credit for all years of congressional employment in computing their annuities rather than limiting congressional service credit to 15 years.

Both the House and the Senate Committees on Post Office and Civil Service have labored hard on this legislation in an attempt to find the best solution to the critical problems which face the Federal retirement system.

The matter of correcting the funding deficiency of the Federal retirement system must be faced by Congress now. We sincerely believe that we have found a good solution. We have also written into S. 2754 some much needed benefits, but at the same time we have held the cost down below the amounts to be contributed by the employees and their employing agencies. Under the bill the benefits of the entire fund will still be .02 points under the 14 percent of payroll contributions.

I strongly urge favorable action on this measure.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. McGEE. I am glad to yield to the distinguished Senator from Florida.

Mr. HOLLAND. I am not clear as to the exemption of \$3,000 of retirement pay from the provisions of the Federal income tax. I assume that that means

an overall amount of \$3,000 and not \$3,000 per year.

Mr. McGEE. No; this would be from income in a given year.

Mr. HOLLAND. Does the Senator mean \$3,000 in every year would be exempted?

Mr. McGEE. Would be exempted from the income tax; yes.

Mr. HOLLAND. The bill is not clear on that. It does not say that this exemption takes effect every year. It appears from the way the bill reads—at least to this Senator—that it is an overall, one-time exemption.

Mr. McGEE. I am having the staff check the language in the bill, and then I will respond to the Senator.

Mr. HOLLAND. My second question on the same point, which I think the Senator can answer while that is being checked, is this: Does this provision affect the provision of the present law under which there is exempt from income tax the full amount that any Member of Congress has paid in up to the time that that amount is fully paid?

Mr. McGEE. It does not affect that existing provision so far as Congress is concerned.

Mr. HOLLAND. The \$3,000-per-year exemption, or whatever it is, does not apply to Members, then, but only to civil service retirees?

Mr. McGEE. The first \$3,000 applies to all.

Mr. HOLLAND. Does this mean that retired Members of Congress get not only the right to receive everything they have paid in—which, of course, is a very large amount and figured over a large number of years—but also \$3,000 a year?

Mr. McGEE. No. As I understand the Senator's point, if I understand it correctly, he still is entitled to all his entitlements in what he has paid in, that this only would obtain to his calculations on paying an income tax annually, and that he would be exempted from the first \$3,000 of obligations in the tax computation.

Mr. HOLLAND. Let me state it in a hypothetical way: Suppose a retiring Member of Congress had paid in \$10,000 to the retirement fund. Under present law—at least as the Senator from Florida understands it—up to the time his retirement pay had equaled \$10,000, he would have no income tax to pay, because, in effect, it would simply be a repayment of savings accumulating to his account. Do I correctly understand that this would still be the case under the proposed legislation?

Mr. McGEE. The Senator's understanding is correct.

Mr. HOLLAND. How does the \$3,000, then, come into the figure?

Mr. McGEE. It comes in after that point.

Mr. HOLLAND. Does it mean that the \$3,000 is a supplement to the return of the \$10,000 or that it is not applicable during the time the \$10,000 is being repaid, or just how does it apply?

Mr. McGEE. The \$10,000 figure the Senator is using is regaining capital. This is a \$3,000 exemption on income.

Mr. HOLLAND. Then, this would be in addition to the return of the \$10,000 saved?

Mr. McGEE. Yes. The \$10,000 capital would be unaffected.

Mr. HOLLAND. One would get back the \$10,000 he had paid in, and, in addition to that, in each year he would be entitled to a \$3,000 exemption?

Mr. McGEE. Exemption; correct.

Mr. HOLLAND. What is the philosophy behind that, may I ask the distinguished Senator?

Mr. McGEE. The basic reason for that was that most of the annuitants are not confronted with that situation, and this was aimed at protecting the across-the-board annuitants who are in a very low income retirement fund category.

Mr. HOLLAND. Is the Senator suggesting that the able committee was seeking to discourage Members of the House and the Senate from staying here for many years?

Mr. McGEE. To my knowledge, the committee never entertained such a thought.

Mr. HOLLAND. I thank the Senator for that clear statement in the Record.

Mr. McGEE. May I respond to the Senator's earlier question in regard to the language in the bill and what it means.

On page 13, in subsection (f) of section 207—

Mr. HOLLAND. Is the Senator referring now to the bill or to the report?

Mr. McGEE. To the bill.

The thrust of the exemption allowance puts it on an identical basis with the Social Security and the Railroad Retirement Acts at the present time.

On page 13, the language reads:

An amount, not to exceed \$3,000 each year which is received by an annuitant or a survivor annuitant under this subchapter . . . which would be included as gross income for purposes of the Federal income tax laws, shall not be included as gross income under such laws.

Would the Senator feel that that would remove the uncertainty?

Mr. HOLLAND. I think it would remove the uncertainty, but it would make the \$3,000 not applicable to retirees who would have to receive \$10,000 or \$20,000, or even more, before they got back what they had put in. Apparently, this \$3,000 does not begin to apply at all until one has received back his entire contribution to the fund.

Mr. McGEE. The income tax law itself, I understand, separates the income capital from the exemption category.

Mr. HOLLAND. I thank the Senator. I believe we have it reasonably clear now. In other words, if a retiree were entitled to receive, let us say, \$20,000 a year, having been here a good while, he could set off that first year the \$10,000 that he had contributed. If that was the amount, and, in addition, claim an exemption of \$3,000 as against the remaining part of the income which would be gross taxable income.

Mr. McGEE. Yes, that is my understanding of it.

Mr. HOLLAND. I think that is a clear explanation. Whether that approach is justified, is another thing.

I hope the Senator will make very clear what is implied, because I do not believe that Congress is trying to increase its rights as above what it had before, in the passage of this measure.

Mr. McGEE. No. The intent was to try to keep it as simple as we could and yet take care of the typical annuitant, who is generally in the \$3,000, \$4,000, or \$5,000 category, which leaves him a very minimal sum.

Mr. HOLLAND. I say again that the Senator is suggesting that the Members of the Senate and the House stay here a very short period.

Mr. FONG. Mr. President, will the Senator yield?

Mr. McGEE. I yield.

Mr. FONG. The reason for the \$3,000 exemption is that if one is a social security retiree, all the amount he receives as a social security beneficiary is not taxable. People who work for the Federal Government are not under social security but do receive a retirement income, and we feel that the \$3,000 is the equivalent amount that the people under social security are getting.

Mr. HOLLAND. The theory of the social security law is that the citizens have paid for insurance and they are getting payments because they have paid for insurance.

Mr. FONG. This will be the same.

Mr. HOLLAND. That is not true in this case, though. The Members of Congress pay on a portion of their retirement. They pay, as I recall it, half of the pool. They have been paying 7 percent each year for a long time—I do not remember how long—and that amounts to a very considerable sum. But the Federal Government pays an equal amount, as I recall.

Mr. FONG. The same is true with respect to the individual. The employer pays half and the employee pays the other half.

Mr. HOLLAND. Perhaps I was thinking about the matter solely from the standpoint of the self-employed person, because that has been my own situation, except for membership in the Senate; and, of course, there is no employer to pay the other half when a person is self-employed.

Mr. McGEE. That is correct. Here our real concern was the 9 million-plus annuitants that we felt had long since merited this kind of exemption in order to keep it equitable for them.

Mr. HOLLAND. From a quick reading of the report and several sections of the bill applying thereto it is made clear there is no change in the existing law as to the way surviving widows are affected. Am I correct in that?

Mr. McGEE. There is a small change in the way surviving widows are affected. It enables them to keep their annuities if they remarry, provided they are over 60 years of age.

Mr. HOLLAND. I am not speaking of that. I am speaking particularly of Members, because of the impression that Members would be particularly concerned with this point. My understanding is, leaving aside the question of remarriage which the Senator mentioned,

there is no change whatever in the right of a surviving widow.

Mr. McGEE. There is no improved benefit. Surviving widows would still be affected by the 1-percent addition on the cost-of-living index.

Mr. HOLLAND. That is the 1-percent addition for every 3-percent upping of the consumer price index.

Mr. McGEE. The Senator is correct.

Mr. HOLLAND. I think it is a good provision. I congratulate the committee for having added it. I think most of the bill is good; maybe all of it is good.

Mr. McGEE. The Senator from Florida has been very helpful.

(At this point, Mr. Spone assumed the chair.)

Mr. HARTKE. Mr. President, will the Senator yield?

Mr. McGEE. I have told the Senator from Delaware I will yield to him.

Mr. President, I yield briefly to the Senator from Indiana.

Mr. HARTKE. Mr. President, first I wish to congratulate the distinguished Senator from Wyoming for his leadership in this field. It has been my privilege so serve as the chairman of the subcommittee and to hold hearings on this measure.

The question raised by the Senator from Florida concerning taxation points out a deepening crisis that exists in the entire field of caring for the aged. I did not think this bill is the answer as far as the problems of these people are concerned. In many cases we have a combination of circumstances surrounding former employees which is rather tragic.

They have never been able to achieve comparability with people in private industry, so that even by taking the high 3 years instead of the high 5 years they are being told they will be paid a percentage on reduced capability that they would have had in the field of private employment. There should not be any penalty for anyone who serves in the Government. I know many people seem to attach an undesirable stigma to people who work for the Government. I find that most people who work for the Government are sincere people. They want to provide service, and they would like to be treated on a comparable basis, not only while they are working, but after they retire.

Anyone who studies the actual amount of money that will be provided under this bill will be shocked because it comes pretty close to the poverty level. This is a problem the country will have to face up to soon. We have two circumstances combining. First, because of the better health of the Nation we have people living longer than they used to; and, second, the increase in cost for people after retirement is frequently the total cost for them to take care of themselves. Frequently people in retirement do not have anyone around to take care of their ordinary affairs. They may have to hire people to care for them and to take them places. The person in retirement usually cannot drive a car any longer. My statement with respect to costs is especially true in the field of medical treatment and drugs.

October 2, 1969

This is a problem which is very acute in the Nation and affects all the aging. The situation is compounded for the civil service employee so I really feel that in this case we are not righting a wrong; we are correcting some of the inequities, but we have much farther to go.

I hope we will not be content to say that the Committee on Post Office and Civil Service considers this to be the answer to the problem. The answer lies beyond.

This is not a problem which is special to the Government, but I think the Government has a responsibility. Certainly, when people retire it should not be the first time in their lives that they are poor. Unfortunately in America today many old people are saying for the first time, "I did not become poor until I became 65." Mr. President, that is tragic, indeed.

I hope we pass the bill quickly and then go about the business of trying to determine what we are going to do about the acute problem of the aging.

Mr. McGEE. Mr. President, the Senator's point is well taken and no one speaks with greater perception and depth of understanding than the Senator from Indiana. The Senator has spent a great many years with this problem, and the thrust of his comments just now have been that this is not the place where we stop. This is only another of the steps we are taking, and that should have been taken in many cases long ago. But at least we are finally moving in this direction. I agree with the Senator.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. McGEE. I am glad to yield to the Senator from Florida.

Mr. HOLLAND. Mr. President, I am glad this entire discussion has come up. I certainly appreciate the comments of the Senator from Indiana. I doubt if the average citizen knows right now that each Member of the House and Senate is paying \$3,000 on his retirement fund out of each year's earnings besides the full income tax which everybody pays, subject only to a \$3,000 allowance for living in Washington, which cost most of us nearly \$10,000.

I think it is good for these matters to be placed in the Record because they more clearly explain the situation.

The next thing I would like to say is I think there is another fact not generally known to our people and that is that workers on the Hill, for Congress, are not in the same situation as civil service workers in that when their Senator or House Member is defeated, their jobs stop the day he goes out of office. There is no right to stay on and there is no vested right to remain, as there is in civil service. I think employees of Congress are thoroughly entitled to be regarded as in a different classification. They are placed in a different classification under the present law and would be by this law. I am glad they are. Of course, they pay a little bit more for the protection they get and under this bill this practice would continue. But it is well for the Record to show that employees of Congress are not in the favored protected and secure position that civil service

workers are. I believe that is shown by this bill and the different treatment accorded for the different groups of employees.

I thank and congratulate the Senator. Mr. YARBOROUGH. Mr. President, will the Senator yield?

Mr. McGEE. I yield.

Mr. YARBOROUGH. Mr. President, as a member of the Committee on Post Office and Civil Service, who served on that committee longer than any other Member of the Senate, I congratulate our chairman, the distinguished senior Senator from Wyoming, for the great care he has taken with the bill, for the diligence with which he attended all hearings, and his work in bringing the measure to the floor of the Senate. I commend him on the bill.

There is one provision in particular that I desire to mention and that is the provision for crediting Federal employees for unused sick leave time.

I introduced that measure in Congress after Congress. We were unable to move it. I hope that it is passed some time. In some respects this provision is more generous than my proposal.

The provision for unused sick leave, I think, is for the benefit of the Federal Government. Figures show that of Federal employees who work for 30 years, one-half use up all the accumulated sick leave and one-half end up with about 44 days in unused sick leave. The able, efficient, and experienced employee works for years and years and does not use any sick leave time. The Government profits on those employees who work year after year and do not use their sick leave because those employees get no credit. These people have worked faithfully and they do not take sick leave and, therefore, they lose 44 days when they retire. When there is an experienced employee who takes a couple of weeks off for sick leave and his substitute is brought in there is a general loss—we had testimony on that year after year—by losing 2 weeks' time of the most efficient employee. This is the experience of private business in America. This is going to make money for the Federal Government.

I congratulate the chairman of the committee on having that provision in the bill.

I want to associate myself with the remarks of the distinguished Senator from Florida. In talking to people in my State, I find that they have no concept of the fact that our payments for retirement are more than \$300 a month. They have heard something about Federal judges, which they get from the lawyers and other laymen, that a Federal judge pays nothing into his retirement system and that after 5 years of service, if he is at the proper age, he can retire at full pay.

I do not think that the service of a judge is so much more patriotic, more arduous, and more difficult, that we should have to vote ourselves a harsh retirement system and vote for them such a generous retirement system. But that is a fact.

I want people to know that whereas a judge pays nothing into his retirement

fund and after 5 years of service, if he is old enough, he can retire on full pay, we must pay \$3,400 a year into the fund, which gives us only 2½ percent of credit for a year's service. When we compute that in with other deductions and limitations, we can take the year's service and it adds up that we will not get that 2½-percent credit in our retirement. If one should pass away, then his widow will draw only one-half the pension, which will not be 2½ times the number of years served. In other words, this is a limited retirement compared to retirement either in Federal service or outside of it.

Mr. President, as the able Senator from Florida has pointed out, it is well for people to know that Senators are also having income tax deductions taken from their checks, just as the rest of American workers do. Many people think that somehow or other we enjoy some free largesse here, that we get things tax free. I think it is well to have that in the Record, too, that our income tax payments come out of our salary checks, and they are heavy, with hundreds of dollars taken out every month for retirement, and hundreds of dollars taken out for income tax, so that the take-home pay of every Member of Congress is reduced drastically from what a person might imagine it is from the gross amount we get.

Mr. President, S. 2754 is a measure which is badly needed. I am hopeful that the Senate will not only pass this bill today but that we would do so without amendment.

This measure has a particularly fond place in my legislative heart for, aside from its basic provision and many financial reforms, it also provides a formula for the addition of unused sick leave to actual length of service in computing annuities. This provision is not as extensive as my own unused sick leave bill, S. 1276, but it is a big step in the right direction. I have fought for this principle for some 6 years now since I introduced my first bill on the subject in 1963, and I am very pleased that we were able to include this principle in this vital legislation.

As has been stated, the basic thrust of S. 2754 is toward financial reform of the system. The financing of the civil service retirement program has been an obvious and continuing problem for a number of years. For years the reports of the actuaries have been grim forecasts of impending financial disaster, each succeeding report being more pessimistic than the preceding. For example, in 1958 the unfunded liability of the program was estimated to be about \$18.1 billion and over the years the estimates have risen so that it is now about \$57.7 billion. Current forecasts are that the civil service retirement fund will have a zero balance in about 18 years if no changes are made in the benefits provided or the financing.

Though these financing reforms are generally supported, it cannot be said that the bill is without controversial features. It is a matter of record that the administration is in general agreement with the financing provisions but

October 2, 1969

Approved For Release 2001/11/01 : CIA-RDP71B00364R000500160002-4

CONGRESSIONAL RECORD — SENATE

S 11795

objects to the benefit improvements which would be provided.

For my part, I believe that the extensive study that has gone into the preparation of the bill indicates that it would provide adequate income to pay for all presently scheduled benefits and an orderly method of financing future benefits.

In addition to the "high-3-year average" formula for computing annuities, a provision of the original bill, Senator McGEE and the full Post Office and Civil Service Committee have added three amendments that are the basic difference between the House and Senate bills. I strongly urge the retention of these amendments in the final bill.

One of these amendments would create a vested survivor right after 18 months' service rather than the 5 years now required. Another would exempt up to \$3,000 of an annuity from Federal taxation. In effect, both these amendments merely extend to Federal employees rights now enjoyed by social security recipients.

The third McGEE amendment would require an annual payment to the retirement fund to cover the costs of extending credit for military service in figuring the final annuity. The military service credit was the idea of the Congress and the cost should not be charged to the fund as a whole. This amendment would rectify this previous oversight.

Upon extensive examination of this measure and a careful study of the problems it is designed to meet, your Committee on Post Office and Civil Service reported S. 2754 unanimously. I urge the Senate to give S. 2754 a similar vote of confidence today.

Mr. President, with this retirement matter coming up year after year, with different provisions in it, I must commend the able Senator from Wyoming for a very skillful job in combining in this bill the many things in our Federal retirement system which need correcting.

As the Senator from Indiana said, it is not perfect. It is difficult to get a perfect bill with all differences of opinion ironed out. But this is a very splendid piece of work and the Senator from Wyoming is entitled to great credit for bringing such a bill to the floor of the Senate.

Mr. McGEE. Mr. President, I want to thank my friend from Texas for his kind comments and would say to him that I always stand very humbly at a time like this, remembering how very much he contributed to the thinking on the bill which reflected the effective way which his years of seniority on the committee made it possible to serve as guidance.

My chairmanship on the committee is the consequence of some of the flukes in our committee system. But it does represent a responsibility, nonetheless. Without men like the Senator from Texas, the Senator from Indiana, the Senator from Utah, the ranking minority member, the Senator from Hawaii, and the Senator from Delaware, we would, I think, have gone off on many occasions in different directions that might not always have turned out to be the wisest ones.

It is the combined vigilance on the part of members of the committee which has made it possible to arrive at what I think is substantially a sound piece of legislation.

Mr. YARBOROUGH. The distinguished Senator from Wyoming just said that he is chairman of the committee by what might be called one of the flukes in our committee system.

Let me say that if his chairmanship is a fluke, then it is one of the luckiest flukes the Senate has had happen to it in a long time.

Mr. McGEE. I thank the Senator from Texas.

Mr. President, I have said all I can say at this time and, therefore, I yield the floor.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. WILLIAMS of Delaware. Mr. President, I want to agree with the chairman, the Senator from Wyoming (Mr. McGEE), on one point; and that is, that title I is long overdue recognition of the insolvency of the civil service retirement fund. Title I provides a method for reimbursing the fund and placing it in a more solvent position.

Mr. President, there are some questions in title II on which I raise questions, particularly the one mentioned by the Senator from Florida. He referred to section 207 on page 18 regarding the \$3,000 special tax exemption, or an amount not to exceed \$3,000 each year for the annuitant. The bill states that this extra \$3,000 will be excluded from the gross income, and it amends section 8355 of title 5 of the United States Code. Under existing law the Treasury Department allows credit for the amount of the pension that represents a return on the payments made by the employee and the other is treated as income.

That is approximately the formula under which it has been taxed heretofore.

As is pointed out, when an employee has recovered all of his original payments to the fund the remainder now is taxable income.

It is interesting to note that this \$3,000 special exemption has no effect, as I see it, on a married couple drawing a pension of \$5,000 or \$6,000 a year. It really does not begin to take effect until the pension has crossed the \$6,000 annual figure. Let us face it, this is not a tax break for the low-income employee.

What disturbs me is not so much the question of whether the \$3,000 exemption should be approved but rather why it does not apply to all retirees, whether they be in private industry or government service. Why give a \$3,000 extra tax exemption on retirement income to just Federal employees? I think that all American citizens who are living on retirement are in the same category and are therefore entitled to the same kind of treatment.

True, retirement payments are exempt under social security, but the social security fund is financed by the employee and the employer—one-half is taken out of his paycheck, and the other half is paid by the employer. But the employer figures that as part of his wage. It is

deferring the income. Social security has a much lower formula for computing benefits than it is under this more favorable formula of civil service.

I think there should be a question in the minds of all of us when considering changing the revenue code, can the Government afford to give this \$3,000 retirement exemption on pensions? If it can then the next question is, should it be made available to employees of the U.S. Government only, or should the tax break be made available to all taxpayers in America?

Mr. President, I do not think it can be justified to single out the employees of the U.S. Government, whether we be Members of Congress or serving in some other capacity, for a special tax exemption that is not extended to all other retired American citizens.

For that reason I think that if this is going to be considered it should be considered as an amendment to the tax revenue bill which will come before the Senate later this year. As a part of that bill Congress can consider how far we reduce the tax for all pension funds. Let us be sure that all the people will be treated alike, and let us not establish a special group of tax-exempt citizens by virtue of their having been employed by the U.S. Government.

Another point is that—

Mr. McGEE. Mr. President, will the Senator let me respond to that question?

Mr. WILLIAMS of Delaware. I will in just a moment.

Mr. McGEE. Oh, I thought the Senator asked a question. Excuse me.

Mr. WILLIAMS of Delaware. We have on the Senate calendar, a tax bill which has long been deferred and which proposes to lower taxes for those in the so-called poverty or low-income groups. That bill has not been acted upon. If it were it would to a large extent reduce the need for the bill we have before us now.

Any tax reduction that is approved by the Senate should apply equally to all taxpayers and not to a select group, which happens to include Members of Congress.

Another point I wish to make is that the tax reduction proposal in section 207 is to amend the Revenue Code in a Senate bill, a procedure which heretofore the Senate has not recognized as being proper. The Revenue Code can be amended only by a bill that has come from the House or by amendments offered thereto in the Senate. That is the customary procedure. Let the Ways and Means Committee of the House or the Finance Committee of the Senate consider the merits of the proposal and relate it to all the other taxpayers.

For that reason, I suggest that it would be wise to strike section 207 from the bill and let it be considered in the regular tax bill later.

Mr. President, I wish to make a point of order that section 207 is an amendment to the Revenue Code, as attached to the Senate bill, which is not in order under our rules.

Mr. McGEE. Mr. President, if it is permissible, am I in order to respond to the

October 2, 1969

point raised by the Senator from Delaware?

Mr. WILLIAMS of Delaware. Mr. President, I will withhold it.

The PRESIDING OFFICER. Will the Senator from Delaware withhold his point of order?

Mr. WILLIAMS of Delaware. I will withhold it, yes.

Mr. McGEE. Mr. President, the Senator raises several good points here. I would like, as best I can recollect them now, respond to them as they appear to me.

I think the Senator is so right that here we have a special group that has been kind of "selected out" for this package—Federal employees—but I think it is important to remember that they were "selected out" long ago and denied that \$3,000 allowance while social security annuitants were getting it and while Railroad Retirement annuitants were getting it. That is the kind of selectivity we have witnessed here in the program. So I think there is a second side to the coin in who is playing favorites.

I agree that there is great merit in having a uniform application of this provision to all retirees, but the jurisdiction of this committee is over civil service retirees. We did not pretend to try to tell the income tax service how to administer the law. We did not intend to invade some other committee's jurisdiction. Our intent was to live up to our responsibility, and that was to address ourselves to the problem of Federal civil service annuities in this particular instance in the bill, in section 207, on page 13, which amends section 8345 of title 5 of the United States Code. This is the Civil Service Retirement Act. It is not the Internal Revenue Code. We believe, therefore, it is still very much in order.

Finally, I would suggest that a year ago, or earlier this year, when a bill that I introduced provided for this very specific allowance—S. 2087—the bill was referred to the Senate Committee on Post Office and Civil Service. And because of the jurisdiction and concern of that committee over civil service annuities, I would have to take issue with my friend from Delaware in regard to the legitimacy of a point of order's being sustained. The Finance Committee has jurisdiction over tax matters. The House can originate revenue bills. But we believe this to be in the civil service annuity category and properly within the jurisdiction of the Committee on Post Office and Civil Service.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. McGEE. I yield.

Mr. WILLIAMS of Delaware. Perhaps I do not understand the English language. I will ask the Senator this question: Is not the purpose of this section 207 to exempt from Federal income taxes \$3,000 of annuitants' pensions?

Mr. McGEE. The purpose of this provision is to try to make it possible for an annuitant to survive on the basis of his annuity.

Mr. WILLIAMS of Delaware. Is not the purpose of this provision to exempt from Federal income taxes the first \$3,000 of an annuitant's pension? Is not

the purpose of the section to exempt the Federal employee from taxes on \$3,000 of his pension?

Mr. McGEE. From the first \$3,000.

Mr. WILLIAMS of Delaware. Of taxes?

Mr. McGEE. Yes.

Mr. WILLIAMS of Delaware. So that makes it a tax bill.

Mr. McGEE. If the Senator will permit me to quote the English language, that is quite a jump in adding that up to a tax bill.

Mr. WILLIAMS of Delaware. It is quite a jump, and it is a benefit that is not extended to any other group—

Mr. McGEE. I mean the Senator's conclusion that it is a tax.

Mr. WILLIAMS of Delaware. On September 4, 1969, the Senator's committee was served notice by the chairman of the Finance Committee (Mr. LONG), and I refer the Senator to the remarks of the Senator from Louisiana appearing on page S10143, wherein the Senator from Louisiana points out how it would amend the Revenue Code and raises a question of jurisdiction.

Today before the Finance Committee we had testimony on this very proposal, based on an amendment introduced by the Senator from Connecticut (Mr. RIBICOFF). His amendment deals with this matter in a broad way, which would affect not only Government employees but all annuitants, including private industry as well. We had testimony on that point before our committee today.

What I am saying, without debating the merits or demerits of this proposal, is that I think whatever we do should be done for all retirees who are living on pensions. I am merely suggesting that we should wait until we get the tax bill, and then whatever we do we treat all taxpayers alike.

When the Senator from Wyoming has finished his statement I will renew my point of order because there is no question that the purpose of this provision is to exempt from Federal income taxes the first \$3,000 of pensions of civil service annuitants.

Mr. McGEE. Mr. President, may I say to my distinguished colleague from Delaware that we were not aware that there had been any great move in the Finance Committee to concern themselves with civil service annuitants or their annuities. I think that is understandable because that matter belongs in the Committee on Post Office and Civil Service.

The staff advises me that the Internal Revenue Code of 1954 contains a provision—I believe sponsored by my colleague from Delaware—to the effect that part-time postal employees cannot attach that to their civil service status.

I think this is a case of looking at both sides of the coin. I would suppose that was subject to some kind of point of order, since it would reflect invading the jurisdiction of the Committee on Post Office and Civil Service. But that really should not be the issue of a point of order here. The issue ought to be whether this is a correct procedure, with the Post Office and Civil Service Committee having jurisdiction.

In view of the absence of any real ef-

fort anywhere else to look into the interests of our civil service annuitants, and because of the precedent set by the Senator himself in adding to the Internal Revenue Code of 1954 a provision that influenced civil service directly, without having to do with the income tax element, it would seem to me that this factor also should be weighed on the scale of decisionmaking in terms of his point of order.

Mr. WILLIAMS of Delaware. When the Senator says the Finance Committee is not concerned with the civil service employees I remind him that the Ribicoff amendment deals with the pensions of all annuitants, including private industry as well as civil service employees. It does not single out one special group for recognition; it deals with all of them, just as all other tax bills should do.

Mr. President, I renew my point of order against section 207, as appearing on page 13 of the bill, on the basis that it is an amendment to the Internal Revenue Code in a Senate bill.

The PRESIDING OFFICER. In response to the Senator from Delaware, the Chair would say that his point of order raises a constitutional question, and that the Chair has no authority to rule on a point of order involving a constitutional question. Therefore, the Chair refers the point of order and the question to the Senate.

The question is, Is it the judgment of the Senate that the point of order is well taken?

Mr. WILLIAMS of Delaware. I ask for a division, Mr. President.

The PRESIDING OFFICER. A division is requested. All who believe the point of order is well taken will stand and be counted.

Mr. WILLIAMS of Delaware. Mr. President, I suggest the absence of a quorum.

Mr. McGEE. Mr. President, I did not hear the second part of the question.

The PRESIDING OFFICER. The question is, all Senators who believe the point of order is well taken will stand.

Mr. McGEE. I thought they had stood, and the Chair had made a follow-up statement.

The PRESIDING OFFICER. All those opposed.

Mr. WILLIAMS of Delaware. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. MANSFIELD. Mr. President, will the Senator withhold that?

Mr. WILLIAMS of Delaware. I will withhold it, but I will be requesting the yeas and nays. I might ask, is the Senator willing to have a vote on it tonight?

The bill clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I have talked with the interested parties on this measure now pending, and I am about to propound a unanimous-consent request.

UNANIMOUS-CONSENT AGREEMENT

I ask unanimous consent that, at the conclusion of morning business tomorrow, there be a time limitation of 30 minutes on the pending constitutional question which has been referred to the Senate for decision, and that the time be equally divided between the distinguished senior Senator from Wyoming, the manager of the bill (Mr. McGEE), and the distinguished senior Senator from Delaware (Mr. WILLIAMS), who raised the point of order.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The unanimous-consent agreement was subsequently reduced to writing, as follows:

Ordered, That at the conclusion of the morning business on October 3, 1969 during the further consideration of the point of order against Section 207 of S. 274 Civil Service Retirement bill, debate be limited to 30 minutes to be equally divided and controlled by the Senator from Wyoming (Mr. McGEE) and the Senator from Delaware (Mr. WILLIAMS).

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. WILLIAMS of Delaware. For the information of the Senate, there will be a record vote on that.

Mr. MANSFIELD. Yes, I think there should be.

Mr. McGEE. Mr. President, will the Senator yield until I can propound another thought here?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HOLLAND in the chair). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPONG. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TELEVISION NEWSPAPER OF THE AIR

Mr. SPONG. Mr. President, WETA, channel 26 launches a daily newspaper-of-the-air tonight—Thursday, October

2—with editors and reporters from the Washington Post and the Evening Star. This is an example of public television's ability to respond effectively to an emergency community need, the channel 26 newspaper-of-the-air will be broadcast in color, 7 to 8 p.m., 10 to 11 p.m.

Newspaper-of-the-air will cover the day's most important events in the fields of foreign and national news; District of Columbia, Virginia, and Maryland news; entertainment, sports, and other news features; with incisive reports and analysis of leading Washington reporters.

I make this announcement for the information of Senators who may be interested.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 11 o'clock tomorrow morning.

The motion was agreed to; and (at 6 o'clock and 50 minutes p.m.) the Senate adjourned until tomorrow, Friday, October 3, 1969, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate October 2, 1969:

AGENCY FOR INTERNATIONAL DEVELOPMENT

Samuel C. Adams, Jr., of Texas, to be an Assistant Administrator of the Agency for International Development, vice R. Peter Straus, resigned.

U.S. DISTRICT JUDGE

R. Dixon Herman of Pennsylvania to be U.S. district judge for the middle district of Pennsylvania, vice Frederick V. Follmer, retired.

U.S. ATTORNEY

S. John Cottone, of Pennsylvania, to be U.S. attorney for the middle district of Pennsylvania for the term of 4 years, vice Bernard J. Brown.

U.S. MARSHAL

Thomas Edward Asher of Kentucky, to be U.S. marshal for the eastern district of Kentucky for the term of 4 years, vice Archie Craft.

William C. Black, of Texas, to be U.S. marshal for the northern district of Texas for the term of 4 years, vice Robert I. Nash.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 2, 1969:

NATIONAL COUNCIL ON THE ARTS

Nancy Hanks, of New York, to be Chairman of the National Council on the Arts for a term of 4 years.

U.S. ATTORNEYS

Duane K. Craske, of Guam, to be U.S. attorney for the district of Guam for the term of 4 years.

James H. Brickley, of Michigan, to be United States attorney for the eastern district of Michigan for the term of 4 years.

Bart M. Schouweiler, of Nevada, to be U.S. attorney for the district of Nevada for the term of 4 years.

Edward R. Neahr, of New York, to be U.S. attorney for the eastern district of New York for the term of 4 years.

William W. Milligan, of Ohio, to be U.S. attorney for the southern district of Ohio for the term of 4 years.

Bias C. Herrero, Jr., of Puerto Rico, to be U.S. attorney for the district of Puerto Rico for the term of 4 years.

Stanley G. Pitkin, of Washington, to be U.S. attorney for the western district of Washington for the term of 4 years.

U.S. MARSHALS

Gaylord L. Campbell, of California, to be U.S. marshal for the central district of California for the term of 4 years.

Rex Walters, of Idaho, to be U.S. marshal for the district of Idaho for the term of 4 years.

George R. Tallent, of Tennessee, to be U.S. marshal for the western district of Tennessee for the term of 4 years.

William A. Quick, Jr., of Virginia, to be U.S. marshal for the western district of Virginia for the term of 4 years.

Rex K. Bumgardner, of West Virginia, to be U.S. marshal for the northern district of West Virginia for the term of 4 years.

S 8952

CONGRESSIONAL RECORD — SENATE

August 1, 1969

the total number was 535,000, or only 2,000 less.

Incidentally, I report that on the day President Lyndon Johnson left the White House January 20, 1969, the total of American Armed Forces in Vietnam, off the coast of Vietnam and in Thailand was 613,200. From that date to June 10, 1969, 2 days after President Nixon announced that 25,000 troops would be withdrawn from Vietnam, this total had been increased to 621,200. On July 19, 1969, more than a month after the announced withdrawal and after 6 months of the administration of President Nixon, 618,600 American servicemen remain in Southeast Asia.

It is with a feeling of sadness, Mr. President, that I make this factually correct report.

I am sure I express the feelings of many millions of Americans who are profoundly disappointed over the failure of this administration to make a sincere effort to withdraw at least 100,000 young Americans from the Vietnam quagmire.

Mr. President, during the week July 19 to 26 Americans killed and wounded in combat numbered 2,926; during that same period South Vietnam friendly forces—too friendly to fight—2,339.

ENROLLED BILLS SIGNED

The ACTING PRESIDENT pro tempore announced that on today, August 1, 1969, he signed the following enrolled bills, which had previously been signed by the Speaker of the House of Representatives:

S. 38. An act to consent to the upper Niobrara River Compact between the States of Wyoming and Nebraska; and

S. 1590. An act to amend the National Commission on Product Safety Act in order to extend the life of the Commission so that it may complete its assigned task.

EXECUTIVE COMMUNICATIONS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the administration and effectiveness of work experience and training project under title V of the Economic Opportunity Act of 1964, Wayne County, Mich., Department of Health, Education and Welfare, dated July 31, 1969 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the effectiveness and administration of the Community Action Program under title II of the Economic Opportunity Act of 1964, Lake County, Ind., Office of Economic Opportunity, dated August 1, 1969 (with an accompanying report); to the Committee on Government Operations.

REPORTS OF A COMMITTEE

The following reports of a committee were submitted:

By Mr. McGEE, from the Committee on Post Office and Civil Service, without amendment:

S. 2754. A bill to amend subchapter III of chapter 83 of title 5, United States Code, relating to civil service retirement, and for other purposes (Rept. No. 91-339).

By Mr. McGEE, from the Committee on Post Office and Civil Service, without amendment:

H.R. 9825. An act to amend subchapter III of chapter 83 of title 5, United States Code, relating to civil service retirement, and for other purposes.

EXECUTIVE REPORTS OF A COMMITTEE

As in executive session, the following favorable reports of nominations were submitted:

By Mr. MAGNUSON, from the Committee on Commerce:

Lewis M. Branscomb, of Colorado, to be Director of the National Bureau of Standards;

Davie W. Oberlin, of Minnesota, to be Administrator of the St. Lawrence Seaway Development Corporation; and

Jacob L. Bernheim, of Wisconsin, Foster S. Brown, of New York, William W. Knight, Jr., of Ohio, Miles F. McKee, of Michigan, and Joseph N. Thomas, of Indiana, to be members of the Advisory Board of the St. Lawrence Seaway Development Corporation.

Mr. MAGNUSON. Mr. President, from the Committee on Commerce, I also report favorably sundry nominations in the Environmental Science Services Administration and the Coast Guard. Since these names have previously appeared in the CONGRESSIONAL RECORD, in order to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, ordered to lie on the desk, are as follows:

David M. Wilson, and sundry other persons, for permanent appointment in the Environmental Science Services Administration;

Philip J. Taetz, and sundry other persons, for permanent appointment in the Environmental Science Services Administration;

George A. Blann, and sundry other officers, to be permanent commissioned officers of the Coast Guard;

Dominic A. Calicchio, and sundry other Reserve officers, to be permanent commissioned officers in the Coast Guard;

Herman J. Lentz, to be a permanent commissioned warrant officer in the Coast Guard; and

George A. Blann, and sundry other officers, for promotion in the Coast Guard.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. McGEE:

S. 2754. A bill to amend subchapter III of chapter 83 of title 5, United States Code, relating to civil service retirement, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. BIBLE:

S. 2755. A bill for the relief of Donal N. Callaghan; to the Committee on the Judiciary.

By Mr. McCLELLAN:

S. 2756. A bill for the general revision of the Patent Laws, title 35 of the United States Code, and for other purposes; to the Committee on the Judiciary.

(The remarks of Mr. McCLELLAN when he introduced the bill appear later in the RECORD under an appropriate heading.)

By Mr. NELSON:

S. 2757. A bill to provide for the control and prevention of pollution, deterioration of water quality, and damage to lands and waters resulting from erosion to the roadbeds and rights-of-way of existing State, county, and other rural roads and highways, and for other purposes; to the Committee on Public Works.

(The remarks of Mr. NELSON when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. MONDALE:

S. 2758. A bill to amend section 312 of the Housing Act of 1964 to eliminate the provision which presently limits eligibility for residential rehabilitation loans thereunder to persons whose income is within the limits prescribed for below-market-interest-rate mortgages insured under section 221(d)(3) of the National Housing Act; to the Committee on Banking and Currency.

(The remarks of Mr. MONDALE when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. DODD:

S. 2759. A bill for the relief of Francesco Daniele; to the Committee on the Judiciary.

By Mr. STEVENS:

S. 2760. A bill to amend the Internal Revenue Code of 1954 to remove the limitations on the deductibility of expenses for care of dependents incurred to enable a taxpayer to be gainfully employed; to the Committee on Finance.

(The remarks of Mr. STEVENS when he introduced the bill appear later in the RECORD under the appropriate heading.)

S. 2756—INTRODUCTION OF A BILL FOR THE GENERAL REVISION OF THE PATENT LAWS

Mr. McCLELLAN. Mr. President, I introduce, for appropriate reference, a bill to provide for the general revision of the patent laws, title 35 of the United States Code.

On February 28 I introduced S. 1246 for the general revision of the patent laws. That bill incorporated the best features of several patent revision bills considered by the Subcommittee on Patents, Trademarks, and Copyrights during the 90th Congress. It also reflected a number of suggestions made during and subsequent to the subcommittee's hearings on patent law revision. Although the public hearings were completed last year, the subcommittee delayed action on this legislation at the request of the patent bar. Last winter, I indicated that if President Nixon determined that he wished to select a new Commissioner of Patents, I would further delay the reporting of a bill by the subcommittee until such time as the new Commissioner could review the various legislative proposals. The President did nominate a new Commissioner of Patents and I have met with him. Many suggestions made by the Commissioner have been included in the revised patent bill which I am introducing today.

This legislation has had a long history and can be traced back to a series of 30 studies on the patent system that were commissioned and published by the Subcommittee on Patents, Trademarks, and Copyrights. Following this review, the subcommittee concluded that "The objectives of the patent system are as valid today as at its inception," but

August 1, 1969

CONGRESSIONAL RECORD — SENATE

S 8951

Obviously, the Safeguard ABM is not a perfect weapon. But it is the best our people have been able to devise.

What we have to do is to look at our adversaries in the world. They put up a defense system of their own; and it makes sense to me, sitting here with their missile pointed at us, for us to have a missile defense system of our own.

I earnestly hope that we will not vote the ABM down, for if we do, we may live to regret it. I hope that we will vote, instead, to be strong and safe, and secure.

Mr. BYRD of West Virginia. Mr. President, will the Senator from Connecticut yield?

Mr. DODD. I yield.

Mr. BYRD of West Virginia. Were there not some scientists who said that the hydrogen bomb was impossible to build?

Mr. DODD. Yes; it was on this same basis that they opposed the H-bomb, saying that it was impossible to build. There were also many members of the administration and of Congress who said that the hydrogen bomb could not be built. Of course, they were dead wrong.

Some of the same scientists now, on the same basis, are telling us that the Safeguard ABM cannot be made to work and that it should not be deployed.

Of course there were a minority of scientists who said that the hydrogen bomb could be built and they were proven to be right.

There were scientists, I remind the Senator from West Virginia, who said that the Polaris submarine system was technologically impossible. Not very long ago they were telling us that. And they were wrong, too. Thank God we went ahead, and that we now have a Polaris system to protect us.

The incredible success of the recent moon mission is pertinent here also.

As the Senator from West Virginia knows, I serve on the Aeronautical and Space Sciences Subcommittee, where we were told that the Apollo program was impossible, that we were throwing our money away, that it could not possibly succeed, that we would never put a man on the moon, that the whole thing was ridiculous.

I am talking about scientists who took this stand. Now they are telling us the Safeguard ABM cannot be made to work.

Mr. BYRD of West Virginia. Let me ask the Senator, what would be our situation now if we had continued only with research on the hydrogen bomb, if we had continued only with research on the Polaris submarine, if we had continued only with research in connection with the moon shot?

Mr. DODD. Well, with respect to the hydrogen bomb, I shudder to think of what would have happened if we had not succeeded in developing it at the time we did. As it turned out, we beat the Soviet Union to it by only about 6 months.

If we had not developed the Polaris submarine system, I shudder again to think of what might have happened to us during those years.

With respect to the moon shot, I am confident that, if our adversaries had gone ahead and gotten there first, they would turn their accomplishments into

some military advantage, to our great disadvantage.

The questions the Senator asks are well taken.

MESSAGE FROM THE HOUSE—ENROLLED BILL AND JOINT RESOLUTION SIGNED

A message from the House of Representatives by Mr. Bartlett, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bill and joint resolution, and they were signed by the Acting President pro tempore:

H.R. 13079. An act to continue for a temporary period the existing interest equalization tax; and

S.J. Res. 85. Joint resolution to provide for the designation of the period from August 26, 1969, through September 1, 1969, as "National Archery Week".

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of routine morning business.

The Chair recognizes the Senator from Ohio (Mr. Young).

DAVE McNALLY TIES AMERICAN LEAGUE PITCHING MARK

Mr. MANSFIELD. Mr. President, for some time I have been intending to take the floor to express my commendation to a fellow Montanan, a young man by the name of Dave McNally, from Billings, Mont. Dave has been pitching for the Baltimore Orioles for a few years, and lately he completed his 15th victory for this season, with no defeats. If we add his two straight victories at the end of last season, Dave has a record of 17-0, which I believe is the way the baseball fraternity would refer to it.

Dave McNally is feeling no pressure. He is feeling no pain. But in his own words, he is feeling very lucky. What the 26-year-old Baltimore left-hander must be wondering, after running his record to 15-0, with a 4-2 victory over Kansas City on Wednesday night, is, "Just how lucky can I be, and just how long can this last?"

To use Dave's words:

No, I don't feel any pressure. I think probably I would feel it if I had pitched well in every game, but that hasn't been the case. I pitched badly enough to lose in six or seven games.

I know it has to end sometime, but I'm very happy to get this far, and I'm enjoying it. I'd rather be winning like this than losing but it's taken a lot of luck to do it.

McNally's number 15 put him in the American League record book alongside Johnny Allen of Cleveland. McNally, with two victories at the end of the 1968 season, tied Allen's mark of 17 consecutive triumphs over two seasons, set in 1936-37, and Allen's record of 15 straight victories at the start of a season, 1937.

Dave McNally is just one triumph away from the league mark of 16 successive victories in one season, set by four pitchers.

I know Dave McNally very well; I know his family extremely well. Those of us who come from Montana are very proud of what Dave McNally has been doing since first starting out in American Legion baseball and then graduating to the Baltimore Orioles. We want him to know that we are following every game with trepidation. We are hoping that his unbroken string of wins will continue through the entire season, because we know that even if Dave is lucky on occasion, he is an outstanding man in his own right.

We look upon him as a great Montanan. I look upon him as a close personal friend.

If Dave ever gets word of this, I just want him to know that there are a lot of us who may not see him at the stadium but who, nevertheless, are watching his every effort and wishing him every success.

AMERICANS SHOULD NOT BE DECEIVED

Mr. YOUNG of Ohio. Mr. President. Americans are entitled to know the facts regarding the much ballyhooed return of 25,000 of our combat troops from South Vietnam.

It would give me pleasure to report not only that 25,000 men of our Armed Forces had been returned home from Vietnam but also that at least 75,000 more combat troops would be returned to the United States from Vietnam before next December. Such a report would be contrary to the facts.

Furthermore, in view of President Nixon's recent statements in Thailand and Saigon, Americans have every reason to be gravely concerned that our fearful combat casualties in that undeclared, immoral, unpopular war in Vietnam will go on and on for many months. President Nixon should be reminded that he was elected because of his oft-repeated campaign statement that he had a secret plan to end the war in Vietnam. That plan is still his secret.

I am regretfully reporting the facts. On January 19, 1969, 2 days before Richard Nixon was inaugurated as President of the United States, there were 532,000 men of our Army, Navy, Marines, Air Force, and Coast Guard in Vietnam. Now, Mr. President, in view of reports issued from the Pentagon and from the White House, Americans have been led to believe that at this time the total men of our Armed Forces in Vietnam, 6 months following the time President Nixon was inaugurated, would be approximately 507,500. The fact is that on July 19, 1969, there were more men of our Armed Forces in Vietnam than at the time Richard Nixon became President. The total number of men in our Army, Navy, Marines, Air Force, and Coast Guard in Vietnam on July 19, 1969, was 535,500, whereas it had been 532,000 on the day before he was inaugurated.

On June 10, 1969, at the time President Nixon announced the withdrawal of 25,000 troops from Vietnam, the total number of men in our Army, Navy, Marines, Air Force, and Coast Guard in Vietnam was 537,500. On July 19, 1969,